

## CHAPTER 40

### FOOD, LODGING, AND RECREATION

#### 40.01 AUTHORIZATIONS.

- (A) Vending Operations. Pursuant to Wisconsin Statute § 97.615(1) in the administration and enforcement of Wisconsin Statutes Ch. 97, Subchapter III, the Wisconsin Department of Agriculture, Trade and Consumer Protection (ATCP) may use local health departments as its agents in making pre-inspections, inspections and investigations of vending machine commissaries, vending machine operators, and vending machines if the jurisdictional area of the local health department has a population greater than 5,000.
- (B) Hotels, Tourist Rooming Houses, and Other Establishments. Pursuant to Wisconsin Statutes § 97.615(2), in the administration of and enforcement of Wisconsin Statutes Ch. 97, Subchapter III, or § 97.67 (relating to campgrounds, recreational and educational camps and public swimming pools), ATCP may enter into a written agreement with a local health department with a jurisdictional area that has a population greater than 5,000, which designates the local health department as ATCP's agent in issuing permits to and making investigations, pre-inspections or inspections of hotels, restaurants, tourist rooming houses, bed and breakfast establishments, campgrounds, recreational and educational camps and public swimming pools.
- (C) Retail Food. Pursuant to Wisconsin Statute § 97.41 in the administration of and enforcement of Wisconsin Statute Ch. 97, Subchapter II, ATCP may enter into a written agreement with a local health department, if the jurisdictional area of the local health department has a population greater than 5,000, which designates the local health department as the agent of ATCP for issuing licenses to and making investigations, pre-inspections or inspections of retail food establishments.
- (D) Agent Status. A local health department granted agent status under subsections (B) and (C) shall establish and collect the permit or license fee for each type of establishment identified in subsections (B) and (C). The local health department may establish separate fees for pre-inspections of new establishments, for pre-inspections of existing establishments for which a person intends to be the new operator or for the issuance of duplicate permits or licenses. No fee may exceed the local health department's reasonable costs of issuing permits or licenses to, making investigations and inspections of, and providing education, training and technical assistance to the establishments, plus the state fee established by ATCP for its costs related to setting standards under Wisconsin Statutes Ch. 97 and monitoring and evaluating the activities of, and providing education and training to, agent local health departments. Local health departments acting as an agent shall include the state fees in their permit and license fee, collect the state fees, and reimburse ATCP for the state fees collected. For each type of establishment, the

state fee may not exceed 20% of the permit or license fees charged under Wisconsin Statute §§ 97.41(5) and 97.615(2)(e). A local health department granted agent status under Wisconsin Statute Ch. 97 may issue a single permit or license and establish and collect a single fee which authorizes the operation on the same premises of more than one type of establishment for which it is granted agent status under Wisconsin Statute §§ 97.41 and 97.615.

A local health department has no authority to act as an agent of the State under this ordinance unless a valid written agreement exists between it and ATPC.

(E) Public Health. The St. Croix County Department of Health and Human Services - Public Health is eligible under state law and authorized by this Chapter to act as an agent of ATPC in St. Croix County, as long as it is designated an agent by written agreement with ATPC, for purposes of:

- (1) Making inspections and investigations of vending machine commissaries, vending machine operators, and vending machines.
- (2) Issuing permits to and making investigations or inspections of hotels, tourist rooming houses, bed and breakfast establishments, campgrounds, recreational and educational camps, and public swimming pools.
- (3) Issuing licenses to and making investigations or inspections of retail food establishments (including restaurants).
- (4) Adopting and imposing regulations related to vending operations, hotels, tourist rooming houses, and other establishment operations, and retail food establishments. All regulations adopted and imposed can only be stricter than, and not in conflict with, the regulations set forth in Wisconsin Statute Chapter 97 and Wisconsin Administrative Code Chapters ATPC 72-79.

#### **40.02 DEFINITIONS.**

The definitions set forth in Wisconsin Statute Chapter 97 and Wisconsin Administrative Code Chapters ATPC 72-79 are adopted by reference into this ordinance.

#### **40.03 REGULATIONS AND ENFORCEMENT.**

(A) The regulation and enforcement provisions applicable to the activities or establishments identified in Section 40.01 of this Chapter are contained in the laws, rules, and regulations set forth in the following chapters of the Wisconsin Statutes and Wisconsin Administrative Code and they, and any modifications, are hereby adopted by reference:

- ATPC 72 - Hotels, Motels, and Tourist Rooming Houses
- ATPC 73 - Bed and Breakfast Establishments

- ATCP 74 - Local Agents and Regulations
- ATCP 75 -Retail Food Establishments
- ATCP 76- Safety, Maintenance, and Operation of Public Pools and Water Attractions
- ATCP 78 - Recreational and Education Camps
- ATCP 79 - Campgrounds
- Wisconsin Statute Ch. 97
- Wisconsin Statute Ch. 251

- (B) The agent shall take necessary and reasonable action to enforce Wisconsin Statute Ch. 97, Subchapters II and III and related administrative code rules for the types of facilities for which the agent has been delegated agent status. Enforcement actions may include revocation, suspension, fines, orders to close, temporary or final hold orders on equipment, food, processes, or facilities and conditional permits. The agent shall notify ATCP in writing within ten (10) days after taking any enforcement action involving permit suspension or revocation or court action.
- (C) Pursuant to Wisconsin Statute§ 66.0417, Local Enforcement of Certain Food and Health Regulations, if an agent has reasonable cause to believe that any examined food constitutes, or that any construction, sanitary condition, operation or method of operation of the premises or equipment used on the premises creates an immediate danger to health, the agent may issue a temporary order and cause it to be delivered to the licensee, or to the owner or custodian of the food, or to both. No temporary order is effective for longer than 14 days from the time of its delivery, but a temporary order may be reissued for one additional 14-day period, if necessary to complete the analysis or examination of samples, specimens, or other evidence. If the analysis or examination shows that the food, construction, sanitary condition, operation or method of operation of the premises or equipment constitutes an immediate danger to health, the licensee, owner, or custodian shall be notified. Upon receipt of the notice, the temporary order remains in effect until a final decision is issued and no food described in the temporary order may be sold or moved and no operation may be resumed without the approval of the county. A notice issued as set forth above shall be accompanied by a hearing set forth in Wisconsin Statutes§§ 66.0417(3) and 68.11(1).

#### **40.04 FEES.**

Annual permit and license fees, pre-inspection fees, and other fees authorized by law shall be established by the St. Croix County Health and Human Services Board. The fees shall cover the reasonable costs of the services. A written schedule of fees shall be created identifying the types of facilities regulated and the annual permit fee, pre-inspection fee, and any other fee for each type of facility.

#### **40.05 PENALTIES.**

In addition to orders to correct violations, the Public Health Department may institute any action or proceeding against violators of this chapter as provided by law, including issuing citations pursuant to Chapter 1 of the St. Croix County Code of Ordinances or commencing a lawsuit.

#### **40.06 SEVERABILITY.**

If any provision of this ordinance is held to be invalid or unconstitutional, or if the application of this ordinance to any person or circumstances is held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the provision or application of this ordinance which can be given effect without the invalid or unconstitutional provision or application.

#### **40.07 AMENDMENTS.**

Any future amendments, revisions, or modifications of Wisconsin Statute Chapter 97 or Wisconsin Administrative Code Chapters ATP 72-79, or any other statutes or administrative code sections referred to in this ordinance are intended to be made part of this ordinance as such amendments, revisions, or modifications are made to said statutes or administrative codes.

#### **40.08 EFFECTIVE DATE.**

This ordinance shall be effective the day after its publication.

Ordinance No. 612 (2002) - March, 2002

Resolution No. 16(2003) - May, 2003

Ordinance No. 783 (2009) - March, 2009

Ordinance No. 800 (2011) - August, 2011

Repealed and Recreated: Ordinance No. 852 (2017)-May, 2017